

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LEAH LAMBERT,)	
)	
Plaintiff,)	Civil Action No. 07-1154
)	
v.)	Magistrate Judge Caiazza
)	
JOHN C. ADKINS, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

In response to the undersigned's Show Cause Order dated October 17, 2007 (Doc. 9), the Plaintiff suggests that the court may exercise supplemental jurisdiction over her state law claims. See Pl.'s Br. (Doc. 11) at 2.

The fact remains, however, that exercising supplemental jurisdiction and then staying the state law claims while the Plaintiff exhausts FTCA remedies flies in the face of an overwhelming trend of contrary authority. See Show Cause Order at 1-2 (citing four decisions concluding that state law claims cannot be stayed pending FTCA exhaustion).

In addition, other courts have expressly rejected the notion that supplemental jurisdiction can be exercised under the circumstances presented here. See, e.g., Porter v. Hirsch, 345 F. Supp.2d 400, 403-404 (S.D.N.Y. 2004) ("there must be a proper basis for original federal jurisdiction before a district court may exercise discretionary supplemental jurisdiction") (citations omitted); Rodriguez v. U.S., 2001 WL 1590516, *2


(E.D.N.Y. Nov. 3, 2001) (same) (citation omitted).

Finally, even assuming supplemental jurisdiction is available, there are no extraordinary circumstances warranting an exercise of the same. See City of Pgh. Comm'n on Human Relations v. Key Bank USA, 2006 WL 167446, *3 & n.2 (3d Cir. Jan. 24, 2006) (declining to resolve "complex" issue of whether remand was mandated given lack of federal jurisdiction, and affirming denial of supplemental jurisdiction for want of "extraordinary circumstances") (citing published Third Circuit authority).

For all of these reasons, the United States' Motion to Dismiss Without Prejudice (**Doc. 4**) is **GRANTED**, and the claims against the remaining Defendants are **REMANDED FORTHWITH** the Court of Common Pleas of Allegheny County, Pennsylvania.

IT IS SO ORDERED.

October 30, 2007


Francis X. Caiazza
U.S. Magistrate Judge

cc (via email):

James B. Cole, Esq.
M. Brian O'Connor, Esq.
Terry C. Cavanaugh, Esq.
Albert W. Schollaert, Esq.